

Exhibit 5

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

OYSTER OPTICS, LLC

Plaintiff

vs.

Civil Action No:

CORIAN AMERICA, INC.

2:16-cv-01302

et al.

Defendants

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The Videotaped DEPOSITION OF GEORGE PAPEN,
Ph.D. was held on Wednesday, February 7, 2018, commencing
at 11:23 a.m., at Duane Morris, LLP, 509 Ninth Street,
N.W., Suite 1000, Washington, D.C. 20004, before Heather
Bjork Avalos, Notary Public.

REPORTED BY: Heather Bjork Avalos

18:52 1 and for transmitting data over a first optical fiber
18:52 2 and receiving data over a second optical fiber.

18:52 3 Q So it's your opinion that it would have
18:52 4 been obvious to change Corke to use one fiber to
18:52 5 transmit and the other fiber to receive, correct?

18:52 6 A It would have been obvious to a person of
18:52 7 skill in the art at the time to implement features of
18:52 8 Corke in combination with Nesnidal so as to have a card
18:53 9 for telecommunications box for transmitting data over
18:53 10 the first optical fiber and receiving data over a
18:53 11 second optical fiber.

18:53 12 MR. RUBIN: So we're not quite at 7:00, but
18:53 13 I'll pass the witness.

18:53 14 MR. BAIRD: Quick break.

18:53 15 THE VIDEOGRAPHER: Off the record at 6:54.

18:53 16 (There was a break in the proceedings.)

18:53 17 THE VIDEOGRAPHER: Back on the record at
19:06 18 7:07.

19:06 19 CROSS EXAMINATION BY MR. BAIRD:

19:06 20 Q Good evening, Professor Papen.

19:06 21 A Good evening.

19:06 22 Q So earlier today, counsel for Oyster Optics
19:06 23 was asking questions. There were a series of questions
19:07 24 pertaining to the table of contents and your
19:07 25 anticipation opinions.

19:07 1 Do you have any anticipation opinions in
19:07 2 the report other than the ones that are reflected as
19:07 3 anticipation in the table of contents?

19:07 4 A Yes, I do.

19:07 5 Q And what are those?

19:07 6 A Referring to the table of contents with
19:07 7 regard to the Pirelli system, wherein section D, a
19:07 8 Pirelli system, numbers 4 -- this is on page -- it's in
19:07 9 the table of contents. Number 4, 5, 6, 7, and 8. As
19:08 10 stated, those in the table of contents is obvious. The
19:08 11 actual -- that actually should have been anticipated.

19:08 12 Q And what claims are those section headings
19:08 13 relate to?

19:08 14 A Those claims are associated with Pirelli
19:08 15 system and the claims in the '327 Patent, specifically
19:08 16 that the card -- the RTX card satisfies all of those
19:09 17 claims under the construction of Oyster that -- strike
19:09 18 that. Under the -- satisfy all the claims of the
19:09 19 patent.

19:09 20 Q So, Professor Papen, when you were
19:09 21 referencing your table of contents, section D, you were
19:09 22 reading Roman letters, four, five, six, seven, eight.
19:09 23 So my question is just the RXT module. The
19:09 24 anticipation opinions that you have with respect to the
19:09 25 RXT module, what claims does that pertain to?

19:09 1 A Okay. So let me go to those claims. So
19:10 2 specifically on section four which deals with claim 1
19:10 3 of the '327 Patent, it now anticipates one pre
19:10 4 transceiver card for a communications box for
19:10 5 transmitting data over a first optical fiber and
19:10 6 receiving data over a second optical fiber, the card
19:10 7 comprising. So with respect to that claim and it being
19:10 8 a telecommunications -- so I'll keep reading. That's
19:10 9 claim 1.

19:11 10 Claim 5 --

19:11 11 MR. BAIRD: I think they're listed in the
19:11 12 table of contents.

19:11 13 THE WITNESS: They are. But I'm going to
19:11 14 read what they are because -- the card recited in claim
19:11 15 1 wherein an energy level detector includes a
19:11 16 photodiode and a linear logarithmic amplifier scaling
19:11 17 an output of the photodiode.

19:11 18 Claim 11. The card is decided, one, where
19:11 19 the plurality of thresholds indicate an increase of the
19:11 20 optical energy level.

19:11 21 Claim 38. The card as recited in claim 36
19:12 22 further comprising the photodiode in a linear
19:12 23 logarithmic amplifier scaling and output of the
19:12 24 photodiode.

19:12 25 So this anticipation opinion is based on

19:12 1 Oyster's contention that the electrical signals within
19:12 2 a box can be signals within a card. And thus the RTX
19:12 3 card -- the internal structure of the RTX card
19:12 4 satisfies that viewpoint. And therefore the RTX card
19:12 5 in the Pirelli system anticipates the claims as I
19:13 6 stated.

19:13 7 Q So is it your opinion that the RXT module
19:13 8 anticipates claim 1, 5, 11, 36, and 38 of the '327
19:13 9 Patent?

19:13 10 A It is.

19:13 11 Q Turning to the '511 Patent, do you have any
19:13 12 anticipation opinions other than what is reflected in
19:13 13 your table of contents?

19:13 14 A Yes. So in the table of contents, Part C
19:13 15 the Pirelli system, the Pirelli system anticipates the
19:13 16 '511 Patent.

19:13 17 And so claim 1, one premethod for operating
19:14 18 an optical fiber multiplex and comprising. In
19:14 19 paragraph 1487, to the extent the preamble is limiting,
19:14 20 a person that is skilled in the art at the time of the
19:14 21 invention would have understood that the Pirelli system
19:14 22 embodied and rendered obvious a method for operating an
19:14 23 optical fiber multiplexor.

19:14 24 For each one of the claims of the '511
19:14 25 Patent, the Pirelli systems embodies that claim and